

Message Text

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C O N F I D E N T I A L STATE 161755

E.O. 11652: GDS

TAGS: EINV

SUBJECT: LIBERIA REFINING CO.

REFS: (A) MONROVIA 4703, (B) MONROVIA 4742

1. DEPARTMENT SHARES EMBASSY CONCERN OVER LRC SITUATION,
PARTICULARLY SUN'S APPARENT UNWILLINGNESS TO PROVIDE
NECESSARY MANAGEMENT AUTHORITY TO KEEP REFINERY OPERATING
AS A GOING CONCERN.

2. INTERNATIONAL LAW DOES NOT NECESSARILY CONSIDER A
TEMPORARY GOVERNMENT TAKEOVER OF PRIVATE PROPERTY IN
CASES OF AN EMERGENCY TO BE AN EXPROPRIATION WHEN PROPERTY
IS ESSENTIAL TO WELL BEING OF COUNTRY. IN SUCH CASES,
SEIZED ASSETS COULD BE CONSIDERED AS BEING HELD AND
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OPERATED BY GOVERNMENT AS A TRUSTEE, AND EXCEPT FOR
UNUSUAL CASES, ASSET OWNERS COULD EXPECT TO RECEIVE SOME
FORM OF COMPENSATION FOR USE OF PROPERTY DURING PERIOD
WHEN IT IS UNDER CONTROL OF GOVERNMENT. BOTH INVESTOR
AND GOVERNMENT SHOULD EXPECT THAT ASSETS WOULD BE
RETURNED TO CONTROL OF OWNERS AS SOON AS EVENTS MAKE THIS
POSSIBLE. SHOULD GOVERNMENT CONTROL CONTINUE OVER

EXTENDED PERIOD OF TIME WITH GOVERNMENT MAKING NO EFFORT
TO RESOLVE OUTSTANDING ISSUES, TRUSTEESHIP COULD BE

CONSIDERED AS HAVING RIPENED INTO EXPROPRIATION.

3. INTERAGENCY GROUP ON EXPROPRIATION MEETS JULY 14
AND WILL CONSIDER LRC SITUATION. CURRENT DEPARTMENT
FEELING IS THAT SOME PREVIOUS ACTIONS OF GOL, WHILE
CERTAINLY NOT IN INTEREST OF GOOD INVESTOR-HOST GOVERN-
MENT RELATIONS, DO NOT IN THEMSELVES SEEM CLEARLY
EXPROPRIATORY. IF GOL DOES TAKE OVER ANY PART OF LRC
OPERATIONS, EXPROPRIATION GROUP WOULD CONSIDER THIS
ACTION IN LIGHT OF SUN REFUSAL TO AUTHORIZE LOCAL
MANAGEMENT AUTHORITY TO OPERATE LRC, AND IN LIGHT OF THE
TERMS OF THE TAKEOVER. A TEMPORARY SEIZURE WOULD APPEAR
IN A BETTER LIGHT HOWEVER, IF GOL DEMONSTRATES GOOD
FAITH TOWARD SUN/DYNALECTRON EFFORTS TO DISPOSE OF LRC
BY A) AGREEING THAT IT WOULD, IF CALLED FOR, STATE IN
WRITING THAT IT HAS NO OBJECTION TO SUN/DYNALECTRON
DISPOSING OF THE OPERATION BY SALE TO A THIRD PARTY;
B) OFFERING TO PURCHASE LRC EQUITY OR ASSETS AT A PRICE
THAT MORE CLOSELY APPROXIMATES THE PRICES OFFERED BY
THIRD PARTIES IN THE PAST; OR C) EXPRESSING WILLINGNESS
TO SUBMIT ENTIRE DISPUTE TO IMPARTIAL ARBITRATION TO
DETERMINE DISPOSITION OF AND COMPENSATION FOR LRC
ASSETS AND EQUITY.

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4. DEPARTMENT WILL APPROACH COMPANIES TO INFORM THEM OF
REPLY WE ARE MAKING TO PHILLIPS ON OUR THINKING PER
PARA 2, 3 AND 5 AND TO EXPRESS OUR CONCERN WITH IMPLI-
CATIONS OF CURRENT DEVELOPMENTS IN LRC CASE. AT SAME
TIME WE WILL URGE THEM TO MEET WITH GOL TO DISCUSS
POSSIBILITY OF FINDING ACCEPTABLE BUYER AT ACCEPTABLE
PRICE, WHETHER IT BE THE GOL OR A THIRD PARTY.

5. IN ANSWERING FINMIN PHILLIPS' QUESTION, YOU SHOULD
BE CAREFUL NOT TO IMPLY THAT WE RECOMMEND SEIZURE IF
SUN PROVES INTRANSIGENT. IN ORDER TO AVOID IMPRESSION
THAT A TEMPORARY SEIZURE MAY BE JUSTIFIED, YOU SHOULD
NOT DISCUSS INFORMATION IN PARA 2, BUT SHOULD MAKE
ONLY THE FOLLOWING POINTS:

-- THE USG WOULD CONSIDER ALL CIRCUMSTANCES PERTAINING
TO ANY GOL TAKEOVER OF ANY PART OF LRC OPERATIONS, AND

-- IF THE GOL FEELS COMPELLED TO TAKE OVER ASSETS ON A
TEMPORARY OR OTHER BASIS SUCH ACTION WOULD APPEAR IN
BETTER LIGHT IF ACCOMPANIED BY MEANINGFUL EFFORTS

(PARA 3 ABOVE) TO SETTLE DISPUTE WITH SUN/DYNALECTRON.
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